

# SUPREME COURT OF WISCONSIN

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Case No.: 95-0070

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Complete Title  
of Case:

State of Wisconsin,  
Plaintiff-Respondent-Petitioner,  
v.  
Wisconsin Central Transportation Corporation,  
Defendant,  
Wisconsin Central Ltd., and Fox Valley &  
Western Ltd.,  
Defendants-Third Party Plaintiffs-  
Appellants,  
v.  
James E. Doyle, Attorney General of the State of  
Wisconsin and State of Wisconsin Department of  
Justice,  
Third Party Defendants.

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ON REVIEW OF A DECISION OF THE COURT OF APPEALS  
Reported at: 200 Wis. 2d 450, 546 N.W.2d 206  
(Ct. App. 1996)  
PUBLISHED

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Opinion Filed: May 2, 1997  
Submitted on Briefs:  
Oral Argument: March 4, 1997

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Source of APPEAL  
COURT: Circuit  
COUNTY: Fond du Lac  
JUDGE: Steven W. Weinke

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JUSTICES:  
Concurred:  
Dissented:  
Not Participating: Bablitch, J., w/drew from participation.

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ATTORNEYS: For the plaintiff-respondent-petitioner the  
cause was argued by *Thomas L. Dosch*, assistant attorney general,  
with whom on the briefs *Susan K. Ullman*, assistant attorney

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general, and *James E. Doyle*, attorney general.

For the defendants-third party plaintiffs-appellants there was a brief by *Jon P. Axelrod*, *Joseph A. Ranney* and *DeWitt Ross & Stevens, S.C.*, Madison and *Janet Gilbert*, general counsel and *Wisconsin Central Ltd. And Fox Valley & Western Ltd.*, Rosemont, IL and oral argument by *Jon P. Axelrod*.

Amicus curiae brief was filed by *Patrick J. Nugent*, and *Canadian Pacific Legal Services*, Minneapolis, MN for the Sool Line Railroad Company.

Amicus curiae brief was filed by *Patrick K. Stevens* and *WI Manufacturer and Commerce*, Madison and *Richard M. Esenberg* and *Foley & Lardner*, Milwaukee for the Wisconsin Manufacturers and Commerce.

Amicus curiae brief was filed by *Marilyn Townsend*, Madison for the United Transportation Union.

This opinion is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 95-0070

STATE OF WISCONSIN

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IN SUPREME COURT

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State of Wisconsin,  
Plaintiff-Respondent-Petitioner,

**FILED**

v.

**MAY 2, 1997**

Wisconsin Central Transportation  
Corporation,  
Defendant,

Marilyn L. Graves  
Clerk of Supreme Court  
Madison, WI

Wisconsin Central Ltd., and Fox  
Valley & Western Ltd.,  
Defendants-Third Party  
Plaintiffs-Appellants,

v.

James E. Doyle, Attorney General of  
the State of Wisconsin and the State  
of Wisconsin Department of Justice,  
Third Party Defendants.

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REVIEW of a published decision of the Court of Appeals<sup>1</sup>  
reversing the order of the Circuit Court for Fond du Lac County,  
Steven W. Weinke, Judge. *Affirmed.*

¶1 PER CURIAM. The court is equally divided on whether  
to affirm or reverse the decision of the court of appeals.  
Justice Donald W. Steinmetz, Justice Jon P. Wilcox and Justice  
Janine P. Geske would affirm; Chief Justice Shirley S.

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<sup>1</sup> State v. Wisconsin Central Transp. Corp., 200 Wis.2d 450,  
546 N.W.2d 206 (Ct. App. 1996).

Abrahamson, Justice Ann Walsh Bradley and Justice N. Patrick Crooks would reverse. Justice William A. Bablitch withdrew from participation.

¶2 Accordingly, the decision of the court of appeals is affirmed.